

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

KEVIN BURNS

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v.

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JPMORGAN CHASE BANK; NATIONAL  
ASSOCIATION, SUCCESSOR BY  
MERGER TO CHASE HOME FINANCE  
LLC; FIRST HOUSTON MORTGAGE  
LTD.; FEDERAL NATIONAL  
MORTGAGE ASSOCIATION (“FANNIE  
MAE”); MORTGAGE ELECTRONIC  
REGISTRATION SYSTEM, INC.  
(“MERS”); STEPHEN C. PORTER, ASSN’T  
SECRETARY, (“MERS”); GEORGIA ANN  
BRADLEY, NOTARY PUBLIC, STATE OF  
TEXAS; MATT LINDSEY, SUBSTITUTE  
TRUSTEE; BARRETT DAFFIN,  
FRAPPIER, TURNER and ENGEL, LLP;  
DANA GOMPERS, MANAGING  
PARTNER-FIRST HOUSTON  
MORTGAGE LTD DBA ENVOY  
MORTGAGE

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Case No. 3:13-CV-00993-L

**DEFENDANT ENVOY MORTGAGE, LTD.’S RESPONSE TO PLAINTIFF’S MOTION  
FOR LEAVE TO AMEND PLEADING**

COMES NOW ENVOY MORTGAGE, LTD. (“Envoy”) and files its Response to Plaintiff’s Motion for Leave to Amend Pleading.

Plaintiff’s Motion for Leave to Amend Pleading (“Motion for Leave”) makes an incomplete and perhaps misleading representation regarding Plaintiff’s conference with Envoy. Envoy files this response to correct that representation.

On February 12, 2014, the undersigned counsel for Envoy was contacted by Christie Burns to confer regarding Plaintiff’s Motion for Leave. Christie Burns identified herself as

Plaintiff David Burns' wife. The undersigned and Christie Burns discussed the reasons for Plaintiff's Motion for Leave. The undersigned told Christie Burns that she would call back with Envoy's response to the conference.

Later that afternoon, the undersigned telephoned Christie Burns to say that Envoy is opposed to Plaintiff's Motion unless the purpose of the amended pleading is to dismiss all claims against Envoy. Christie Burns assured the undersigned that Envoy would be dismissed as a party to the suit in the amendment to Plaintiff's pleading. The undersigned reiterated that Envoy was unopposed to the Plaintiff's Motion for Leave only to the extent that the amended pleading dismissed all claims against Envoy; if the amended pleading did not dismiss all claims against Envoy, then Envoy was opposed. Christie Burns reiterated that Envoy would be dismissed and that the new pleading would "narrow the claims."

On February 18, 2014, Plaintiff filed his Motion for Leave. Plaintiff's Motion for Leave mentions the dismissal of BDFTE Defendants in an amended complaint. (See Doc. 50 at p. 2). There is no mention of Envoy's dismissal.

The certificate of conference as to Envoy states that the undersigned is not opposed to Plaintiff's Motion for Leave, without any indication to that Court that Envoy was unopposed only to the extent that Plaintiff's amended pleading dismissed all claims against Envoy.

Plaintiff did not attach his First Amended Complaint to his Motion for Leave and Envoy cannot verify that the amended pleading will dismiss all claims against Envoy.

WHEREFORE, premises considered, ENVOY MORTGAGE, LTD. requests that Plaintiff's Motion for Leave to Amend Pleadings be denied unless Envoy is dismissed as represented, and for other relief to which Envoy may be justly entitled.

Respectfully submitted,

//s// Sabrina A. Neff

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon the following on the 19<sup>th</sup> day of February, 2014:

Kevin Burns  
243 Barnes Ridge Road  
Sunnyvale, Texas 75182

*In pro se*

***Via CM/RRR 7196 9008 9111 1734 5215***

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*//s// Sabrina A. Neff*

C. Ed Harrell